

# EXHIBIT CC

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## Transcript of Erin Herrera

1 (1 to 4)

Conducted on August 4, 2020

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25																																								
<p>UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK</p> <p>-----X</p> <p>CARNEGIE INSTITUTION OF : WASHINGTON, M7D CORPORATION : Plaintiffs, : v. :Civil Action No: :1:20-CV-00200JSR FENIX DIAMONDS LLC, : Defendant. : -----X</p> <p>HIGHLY CONFIDENTIAL</p> <p>DEPOSITION OF ERIN HERRERA</p> <p>APPEARING REMOTELY FROM GLENDAORA, CALIFORNIA</p> <p>TUESDAY, AUGUST 4, 2020</p> <p>12:00 P.M.</p> <p>Job No.: 312088 Pages 1 - 163 Reported by: Adrienne Mignano, RPR Appearing remotely from Suffolk County, New York</p>	<p>A P P E A R A N C E S</p> <p>ON BEHALF OF PLAINTIFFS: MICHELLE UMBERGER, ESQUIRE PERKINS COIE LLP 33 East Main Street Suite 201 Madison, Wisconsin 53703 (608) 663-7466</p> <p>ON BEHALF OF DEFENDANTS NICOLE KOPINSKI, ESQUIRE MICHAEL SCHUBERT, ESQUIRE LEYDIG, VOIT &amp; MAYER Two Prudential Plaza 180 North Stetson Avenue Suite 4900 Chicago, Illinois 60601 (312) 616-5600</p> <p>ALSO PRESENT: GABRIEL BINA, ESQ. - Perkins Coie ARMANDO FORTE - Videographer RYAN GRZELAK - Remote Tech</p>																																								
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<p>Deposition of ERIN HERRERA, held via Zoom videoconferencing, Pursuant to Notice, before Adrienne M. Mignano, a Registered Professional Reporter and a Notary Public in and for the State of New York.</p>	<p>C O N T E N T S</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 80%;"></th> <th style="text-align: right; width: 20%;">PAGE</th> </tr> </thead> <tbody> <tr> <td>EXAMINATION OF ERIN HERRERA</td> <td style="text-align: right;">6</td> </tr> <tr> <td>BY MS. UMBERGER</td> <td style="text-align: right;">6</td> </tr> <tr> <td colspan="2" style="text-align: center;">E X H I B I T S</td> </tr> <tr> <td colspan="2" style="text-align: center;">(Attached to the Transcript)</td> </tr> <tr> <td>HERRERA DEPOSITION EXHIBIT</td> <td style="text-align: right;">PAGE</td> </tr> <tr> <td>Exhibit 1 Printout from website</td> <td style="text-align: right;">50</td> </tr> <tr> <td>Exhibit 2 E-mail string</td> <td style="text-align: right;">53</td> </tr> <tr> <td>Exhibit 3 E-mail string</td> <td style="text-align: right;">69</td> </tr> <tr> <td>Exhibit 4 E-mail</td> <td style="text-align: right;">74</td> </tr> <tr> <td>Exhibit 5 E-mail</td> <td style="text-align: right;">79</td> </tr> <tr> <td>Exhibit 6 Attachment to E-mail</td> <td style="text-align: right;">82</td> </tr> <tr> <td>Exhibit 7 Three-page e-mail string</td> <td style="text-align: right;">94</td> </tr> <tr> <td>Exhibit 8 Attachment to E-mail</td> <td style="text-align: right;">95</td> </tr> <tr> <td>Exhibit 9 E-mail</td> <td style="text-align: right;">112</td> </tr> <tr> <td>Exhibit 10 E-mail chain</td> <td style="text-align: right;">121</td> </tr> <tr> <td>Exhibit 11 Attachment to E-mail</td> <td style="text-align: right;">122</td> </tr> <tr> <td>Exhibit 12 E-mail chain</td> <td style="text-align: right;">130</td> </tr> <tr> <td>Exhibit 13 E-mail</td> <td style="text-align: right;">133</td> </tr> <tr> <td>Exhibit 14 Attachment to E-mail</td> <td style="text-align: right;">133</td> </tr> </tbody> </table>		PAGE	EXAMINATION OF ERIN HERRERA	6	BY MS. UMBERGER	6	E X H I B I T S		(Attached to the Transcript)		HERRERA DEPOSITION EXHIBIT	PAGE	Exhibit 1 Printout from website	50	Exhibit 2 E-mail string	53	Exhibit 3 E-mail string	69	Exhibit 4 E-mail	74	Exhibit 5 E-mail	79	Exhibit 6 Attachment to E-mail	82	Exhibit 7 Three-page e-mail string	94	Exhibit 8 Attachment to E-mail	95	Exhibit 9 E-mail	112	Exhibit 10 E-mail chain	121	Exhibit 11 Attachment to E-mail	122	Exhibit 12 E-mail chain	130	Exhibit 13 E-mail	133	Exhibit 14 Attachment to E-mail	133
	PAGE																																								
EXAMINATION OF ERIN HERRERA	6																																								
BY MS. UMBERGER	6																																								
E X H I B I T S																																									
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Exhibit 2 E-mail string	53																																								
Exhibit 3 E-mail string	69																																								
Exhibit 4 E-mail	74																																								
Exhibit 5 E-mail	79																																								
Exhibit 6 Attachment to E-mail	82																																								
Exhibit 7 Three-page e-mail string	94																																								
Exhibit 8 Attachment to E-mail	95																																								
Exhibit 9 E-mail	112																																								
Exhibit 10 E-mail chain	121																																								
Exhibit 11 Attachment to E-mail	122																																								
Exhibit 12 E-mail chain	130																																								
Exhibit 13 E-mail	133																																								
Exhibit 14 Attachment to E-mail	133																																								
4																																									

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Transcript of Erin Herrera

2 (5 to 8)

Conducted on August 4, 2020

1 THE VIDEOGRAPHER: We're now on the  
 2 record. The following is a videotaped deposition.  
 3 Here begins Tape Number 1 in the videotaped  
 4 deposition of Erin Herrera. It's taken in the  
 5 matter of Carnegie Institution of Washington and  
 6 M7D Corporation versus Fenix Diamonds LLC.

7 Today's date is August 4, 2020. The  
 8 time on the video monitor is 12:03 p.m. My name  
 9 is Armando Forte. I'm the videographer  
 10 representing Planet Depos. All parties are  
 11 attending this deposition remotely. Will counsel  
 12 please identify themselves and who they represent.  
 13 Ms. Umberger.

14 MS. UMBERGER: This is Michelle  
 15 Umberger, and I represent the Carnegie Institute  
 16 of Washington and M7D Corporation.

17 THE VIDEOGRAPHER: Ms. Kopinski.

18 MS. KOPINSKI: Nicole Kopinski, and I  
 19 represent Ms. Erin Herrera subject to her  
 20 subpoena, and with me is Mike Schubert, from  
 21 Leydig, Voit & Mayer, Limited.

22 THE VIDEOGRAPHER: Our court reporter  
 23 for today is Adrienne Mignano, representing Planet  
 24 Depos, she will now swear in the witness, or  
 25 affirm, and we will proceed.

1 Whereupon,  
 2 ERIN HERRERA,  
 3 being first duly sworn or affirmed to testify to  
 4 the truth, the whole truth, and nothing but the  
 5 truth, was examined and testified as follows:

6 EXAMINATION BY COUNSEL FOR THE PLAINTIFF  
 7 EXAMINATION BY

8 MS. UMBERGER:

9 Q Good morning, Ms. Herrera. My name is  
 10 Michelle Umberger and, as I said, I represent M7D  
 11 and the Carnegie Institute of Washington in this  
 12 matter.

13 Have you ever had your deposition taken  
 14 before?

15 A I have not. And good morning.

16 Q Good morning. Were you -- are you  
 17 being represented by counsel today?

18 A Yes, I am.

19 Q And that is Ms. Kopinski; is that  
 20 correct?

21 A Yes.

22 Q I'm going to go over a couple of ground  
 23 rules for the deposition that will just hopefully  
 24 make it easier on everyone, including the court  
 25 reporter, and everyone else we have on the line

5 1 today. And your counsel may have gone over this,  
 2 but let's first try not to talk over each other.  
 3 So I will try to make it clear when I finish my  
 4 question and give you the opportunity to fully  
 5 answer before I ask another question.

6 If you don't understand a question that  
 7 I ask, please ask me to restate it or let me know.  
 8 If you respond to a question that I ask, I will  
 9 assume you understood the question as it was  
 10 asked. But sometimes I really mess up and it's a  
 11 very confusing question, and I'm happy to restate  
 12 if you don't understand the question.

13 Also, you know that you're under oath  
 14 today; is that correct?

15 A Yes.

16 Q And you are here to tell the truth,  
 17 just as if you were in a court of law?

18 A Yes.

19 Q And is there any reason you cannot  
 20 testify truthfully and accurately today, such as  
 21 are you on any medication or have any illnesses  
 22 that might prevent you from testifying truthfully  
 23 and accurately today?

24 A No.

25 Q All right. Finally, if you need any

6 1 breaks, just please just let me know. I will try  
 2 to stop probably every hour and 15 minutes or so  
 3 because that seems to be a good time. Everyone  
 4 gets a little tired at that point, so I'll try to  
 5 do that, but if there is a point in which you need  
 6 to take a break other than when a question is  
 7 pending, just let me know, and we'll take a break.

8 A Okay.

9 Q Oh, finally, technical issues. Now,  
 10 Ryan is very optimistic everything will go  
 11 smoothly, and I am every time a deposition starts  
 12 out. But there may be times when my voice cuts  
 13 out for some reason, the microphone or we have  
 14 some other technical issue, but I appreciate your  
 15 patience with those. And if my voice does cut  
 16 out, again, just ask me to restate the question.

17 A I will.

18 Q The court reporter usually does a good  
 19 job of that too.

20 All right. So can you describe for me  
 21 your education beyond high school?

22 A Can you be more specific?

23 Q Yes. Do you have any post high school  
 24 education? Did you go to college?

25 A No.

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Transcript of Erin Herrera

3 (9 to 12)

Conducted on August 4, 2020

	9		11
1    Q	Did you have any other post high school	1    Q	Now, where were you employed after
2 education, associate school, technical school,		2 that?	
3 anything like that?		3    A	<b>Diamond Foundry.</b>
4    A	<b>On-the-job training, industry-specific</b>	4    Q	And what is the business of Diamond
5 types of trainings, company trainings, but nothing		5 Foundry?	
6 in a formalized institution.		6    A	<b>Diamond Foundry is a lab-grown diamond</b>
7    Q	So when you first started, you consider	7 grower, and they also sell their own diamonds.	
8 yourself an experienced sales executive at this		8    Q	When you say they are their own grower,
9 point?		9 what do you mean by that?	
10   A	<b>Yes.</b>	10   A	<b>They grow diamonds.</b>
11   Q	How did you start out in sales?	11   Q	And do you know the process by which --
12   A	<b>In high school. I worked in the mall.</b>	12 do you know the process by which Diamond Foundry	
13   Q	Nice. After high school, can you	13 grows diamonds?	
14 describe for me your first, kind of, few positions		14   MS. KOPINSKI: Objection to form.	
15 in sales after that?		15   A	<b>Can you be more specific?</b>
16   A	<b>I worked retail for a long time and</b>	16   Q	Were these diamonds that were produced
17 then I entered into the world of wholesale in		17 by CVD or chemical vapor deposition?	
18 apparel, transitioned into a short stint in		18   MS. KOPINSKI: Objection to form. And	
19 marketing and ad sales, and then into the jewelry		19 I'll caution the witness not to answer to the	
20 industry.		20 extent that your answer would violate any	
21   Q	When did you start getting into the	21 non-disclosure agreement.	
22 jewelry industry?		22   Q	You can answer unless there is an issue
23   A	<b>2013 -- I'd have to double-check to be</b>	23 that was identified by your counsel.	
24 100 percent accurate, but yeah, 2013.		24   A	<b>I am not technical. I'm on the sales</b>
25   Q	And was that with a particular company?	25 side. So the specifics are not really something I	
	10		12
1    A	<b>Yes, it was.</b>	1    can speak to.	
2    Q	What company was that?	2    Q	Do you know what a CVD-grown diamond
3    A	<b>Pandora Jewelry.</b>	3 is?	
4    Q	How long did you work at Pandora?	4    MS. KOPINSKI: Objection. Form.	
5    A	<b>Four or five years.</b>	5 Foundation.	
6    Q	What was your title there?	6    A	<b>I know that a CVD diamond is a type of</b>
7    A	<b>I had various titles in that company.</b>	7 lab-grown diamond.	
8    Q	Let's talk about the title you had at	8    Q	Now, Ms. Herrera, I've reviewed a
9 the time you left Pandora. What was your title at		9 number of your documents, and you said you	
10 that point?		10 consider yourself an experienced sales	
11   A	<b>Senior key account manager.</b>	11 representative; is that correct?	
12   Q	And what were your responsibilities as	12   MS. KOPINSKI: Objection. Form.	
13 senior key account manager?		13   Q	You can answer.
14   A	<b>I managed everything for a variety of</b>	14   A	<b>Yes.</b>
15 key accounts identified by Pandora. Sales,		15   Q	Okay. And, now, as I review your
16 marketing, et cetera.		16 documents, it seems like you are someone who takes	
17   Q	How long did you work at Pandora?	17 your career seriously?	
18   A	<b>About four to five years. Again, dates</b>	18   MS. KOPINSKI: Objection. Form.	
19 elude me. I'd have to reference something to be		19   Q	Is that right?
20 sure.		20   A	<b>Yes.</b>
21   Q	Would you have left Pandora then about	21   Q	And you care about your professional
22 2017, 2018?		22 reputation?	
23   A	<b>Yes.</b>	23   A	<b>Yes.</b>
24   Q	And did you become employed after that?	24   MS. KOPINSKI: Objection. Form.	
25   A	<b>Yes, I did.</b>	25   Q	And so when you are at a company such